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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 LINDSAY DUNN,

11 Plaintiff,

12 v.

13 BNSF RAILWAY COMPANY,

14 Defendant.

CASE NO. C17-0333JLR

ORDER DENYING MOTION  
FOR RECONSIDERATION

15 This matter comes before the court on Defendant BNSF Railway Company's  
16 ("BNSF") motion for partial reconsideration. (Mot. (Dkt. # 24).) For the reasons stated  
17 below, the court DENIES the motion.

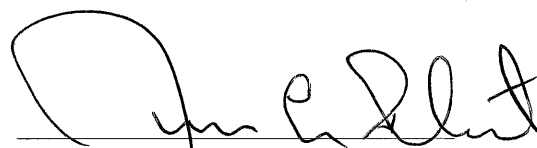
18 Pursuant to Local Civil Rule 7(h)(1), motions for reconsideration are disfavored,  
19 and the court will ordinarily deny such motions unless the moving party shows (a)  
20 manifest error in the prior ruling, or (b) new facts or legal authority which could not have  
21 been brought to the attention of the court earlier with reasonable diligence. Local Rules  
22 W.D. Wash. LCR 7(h)(1). In its motion for partial reconsideration, BNSF alleges

1 manifest error in the court's prior ruling. (*See generally* Mot.) Specifically, BNSF  
2 contends that the court "appears to have inadvertently overlooked BNSF's request for  
3 relief as to the third alleged December 17, 2014, adverse action: the non-offer of  
4 alternative handling." (Mot. at 3.) BNSF asks the court to "correct this apparent  
5 oversight" and rule that this alleged adverse action is time-barred. (*Id.*)

6 The court did not overlook the alternative handling claim. In its order, the court  
7 considered whether it had subject matter jurisdiction over this claim. (08/25/2017 Order  
8 (Dkt. # 22) at 8-10.) But without sufficient information, the court could not resolve this  
9 jurisdictional question and accordingly ordered Plaintiff Lindsay Dunn to show cause as  
10 to why this claim should not be dismissed for lack of jurisdiction. (*Id.* at 9-10.) Because  
11 the court cannot consider the merits of a claim that it does not have jurisdiction over, it  
12 declined to address the timeliness of the alternative handling claim in its Rule 12(b)(6)  
13 analysis. (*See id.* at 19.) The court recognizes, as BNSF points out, that two other  
14 adverse actions that occurred on the same day are time-barred (*see* Mot. at 3; Order at 19-  
15 21), but until the court establishes jurisdiction over the alternative handling claim, it  
16 cannot, as BNSF requests, grant dismissal on the merits.

17 Because BNSF has not made a showing of manifest error in the court's prior  
18 ruling or brought to the court's attention any new facts or legal authority, the court  
19 DENIES BNSF's motion for partial reconsideration (Dkt. # 24).

20 Dated this <sup>th</sup>7 day of September, 2017.

21   
22 JAMES L. ROBART  
United States District Judge